

Assembly Bill No. 925

CHAPTER 1088

An act to add Sections 12803.6, 12803.65, and 12803.7 to the Government Code, to add Division 10 (commencing with Section 18000) to the Unemployment Insurance Code, and to amend Sections 12300 and 14132.95 of, and to add Sections 14007.95 and 14132.955 to, the Welfare and Institutions Code, relating to disabilities.

[Approved by Governor September 29, 2002. Filed
with Secretary of State September 29, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

AB 925, Aroner. Employment of persons with disabilities.

Existing law contains various programs to assist persons with disabilities to obtain employment.

This bill would require the California Health and Human Services Agency and the Labor and Workforce Development Agency, using existing resources, to create a sustainable, comprehensive strategy to accomplish various goals aimed at bringing persons with disabilities into employment.

The bill would require the Governor to rename and authorize the existing California Governor's Committee on Employment of Disabled Persons, as the "California Governor's Committee on Employment of People with Disabilities," would require the committee to be established in the Labor and Workforce Development Agency, and would specify the membership and duties of the committee.

The bill would also require the committee, to the extent that funds are available, to make grants to counties and local workforce investment boards in order to develop local strategies for enhancing employment opportunities for people with disabilities, and to fund comprehensive local and regional benefits planning and outreach programs to assist persons with disabilities in removing barriers to work.

Existing law contains various programs for job training and employment investment. Among other things, provisions are made for local workforce investment boards. In addition, a State Workforce Investment Board has been established in accordance with federal law.

This bill would require each local workforce investment board to establish at least one comprehensive one-stop career center and would impose various requirements related to ensuring that those one-stop centers provide universal access to services pursuant to the federal Workforce Investment Act of 1998 for persons with disabilities.

The bill would also require that, if permitted by federal law, the California Workforce Investment Board and local workforce investment boards include persons with disabilities.

Existing law provides for the Medi-Cal program, administered by the State Department of Health Services, under which qualified low-income persons are provided with health care services.

Existing law specifies procedures under which personal care services meeting certain conditions, when provided to a categorically needy person, as defined, are a covered Medi-Cal benefit to the extent federal financial participation is available. Under existing law, these provisions become inoperative on July 1, 2002, and as of January 1, 2003, are repealed.

This bill would require these personal care services to include services in the recipient's place of employment, under specified conditions. By expanding the scope of personal care services, the bill would create a state-mandated local program. The bill would also delete the inoperative and repeal dates described above, thereby making these Medi-Cal benefit coverage provisions operative on and after January 1, 2003.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) Historically, federal programs for adults with disabilities have encouraged dependency on income supports and have created barriers to employment and economic self-sufficiency. Even in strong economic times, adults with disabilities have had limited options and faced major barriers to achieve economic self-sufficiency, resulting in prolonged reliance upon public assistance programs and an unacceptably high unemployment rates statewide.

(b) Federal laws enacted during the 1990's offered significant public policies and fiscal incentives designed to assist states to restructure workforce development programs into integrated workforce investment



systems that will respond to the employment, training, and education needs of its citizens.

(c) Since 1998, employment-focused reforms for adults with disabilities in the workforce have been enacted into Medicare, medicaid, the Supplemental Security Income Program (SSI), the Social Security Disability Insurance Program (SSDI), and with respect to programs administered by the United States Department of Labor, and the United States Department of Education.

(d) The federal Workforce Investment Act of 1998 (WIA), (Public Law 105-220) redesigned major federal public employment programs, and included a requirement that services for employers and employees be centered in accessible, community-based one-stop centers.

(e) The federal Ticket to Work and Work Incentives Improvement Act of 1999, (Public Law 106-170) increased opportunities for states to remove and minimize barriers to employment for people with disabilities by improving access to health care coverage available under Medicare and medicaid.

(f) Beginning February 1, 2002, the Social Security Ticket to Work program (TTW) began a state-by-state phase in period nationally, allowing SSI and SSDI beneficiaries to receive a “ticket” from the Social Security Administration that can be assigned for employment services to a wider pool of rehabilitation, employment, or other employment support service providers. The Ticket to Work program (TTW) is scheduled for implementation in California in July 2003.

(g) The programs and consumer options provided under Public Law 106-170 are based upon public policies that respect the rights of consumers to control decisions related to health care, rehabilitation, and employment within the framework of independent living principles and guidelines that include, but are not limited to, providing consumers of these services with an array of choices to promote independence and financial stability.

(h) California took a significant step forward in removing barriers to work for Californians with disabilities when it enacted Chapter 820 of the Statutes of 1999 (Assembly Bill 155, introduced by Assembly Member Migden, which has been referred to as the “250% California Working Disabled Program” or “CWD”) under which any employed individual who is disabled and whose countable income, as determined pursuant to Section 14007.9 of the Welfare and Institutions Code, does not exceed 250 percent of the federal poverty level shall be eligible for Medi-Cal benefits, subject to the payment of sliding-scale premiums set by the State Department of Health Services. Two years after its implementation, CWD program enrollment is just above 500, which is significantly below budgeted projections.



(i) California received a “Medicaid Infrastructure Grant” (MIG) that is expected to continue for a second year, and that allows the State Department of Health Services to administer the California Health Incentive Improvement Project with the assistance of a project steering committee in order to bolster the state’s efforts to conduct outreach, research, and analysis related to the implementation of Chapter 820 of the Statutes of 1999.

(j) California will have the opportunity to coordinate its activities with privately funded initiatives to identify potential cost savings that could be achieved if California adopted additional policies available to the state through the federal Balanced Budget Act of 1997 and the Ticket to Work and Work Incentives Improvement Act, including, but not limited to, raising the income standard, changing rules related to disregarding or exempting resources, providing adjustments to the amount of premiums paid on a sliding scale, including adjustments based on the amount paid for other health insurance, and providing an allowance for coverage for up to 18 months in the case of loss of employment.

(k) The California Governor’s Committee on Employment of Disabled Persons, through its staff and volunteers, promotes in the private and public sectors understanding and information on employment supports and benefits for people with disabilities who transition from benefits as the sole source of income to gainful employment.

SEC. 2. Section 12803.6 is added to the Government Code, to read:

12803.6. (a) The Governor shall authorize the secretary of the Labor and Workforce Development Agency, in collaboration with the secretary of the California Health and Human Services Agency, to make available the expertise of state employees and programs to support the employment-related needs of individuals with disabilities. Using existing resources, the agencies shall develop a sustainable, comprehensive strategy to do all of the following:

(1) Bring adults with disabilities into gainful employment at a rate that is as close as possible to that of the general adult population.

(2) Support the goals of equality of opportunity, full participation, independent living, and economic self-sufficiency for these individuals.

(3) Ensure that state government is a model employer of individuals with disabilities.

(4) Support state coordination with, and participation in, benefits planning training and information dissemination projects supported by private foundations and federal grants.

(b) (1) The Labor and Workforce Development Agency shall monitor and enforce implementation of Section 188 of the federal



Workforce Investment Act of 1998 (29 U.S.C. Sec. 2938), and shall require local workforce investment boards to report as follows:

(A) By July 1, 2003, each local workforce investment board shall report to the Labor and Workforce Development Agency or its designated department on the steps it has taken to ensure compliance with Section 188 of the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2938), in regard to the provisions as they apply to persons with disabilities.

(B) By October 31, 2003, each local workforce investment board that chooses to participate in the federal Ticket to Work and Self-Sufficiency program shall report to the California Workforce Investment Board on its readiness to meet the eligibility standards to serve as an employment network under the federal Ticket to Work and Self-Sufficiency program (Section 1148(f), Part A, Title XI of the Social Security Act, 42 U.S.C. Section 1320b-19).

(2) The Labor and Workforce Development Agency shall report its findings, based on the reports described in subparagraph (A) of paragraph (1), to the Governor and the Legislature.

SEC. 3. Section 12803.65 is added to the Government Code, to read:

12803.65. (a) The Governor shall rename and establish, in the Labor and Workforce Development Agency, the existing California Governor's Committee on Employment of Disabled Persons as the "California Governor's Committee on Employment of People with Disabilities" or "CGCEPD."

(b) (1) The California Governor's Committee on Employment of People with Disabilities shall include, but not be limited to, the following:

(A) Four individuals with disabilities representing disabled persons, two appointed by the Governor and one each appointed by the Senate Committee on Rules and the Speaker of the Assembly, each for a three-year term.

(B) The Directors of the Employment Development Department, State Department of Health Services, State Department of Mental Health, State Department of Developmental Services, State Department of Social Services, and Department of Rehabilitation, and the Chair of the State Independent Living Council.

(C) Representatives from the State Department of Health Services' California Health Incentive Improvement Project.

(D) A representative from the California Workforce Investment Board.

(E) Representatives from any other department or program that may have a role in increasing the capacity of state programs to support the employment-related needs of individuals with disabilities.



(F) A representative from a local one-stop or local workforce investment board, to be appointed by the Governor.

(G) A business representative with experience in employing persons with disabilities, to be appointed by the Governor.

(2) The members of the California Governor's Committee on Employment of People with Disabilities shall select a chair from among the members, and shall hold open meetings no less than quarterly.

(c) The California Governor's Committee on Employment of People with Disabilities shall consult with and advise the Labor and Workforce Development Agency and the California Health and Human Services Agency on all issues related to full inclusion in the workforce of persons with disabilities, including development of the comprehensive strategy required pursuant to Section 12803.6 and implementation of the grant program established pursuant to Section 12803.7.

(d) The California Governor's Committee on Employment of People with Disabilities shall also:

(1) Coordinate and provide leadership, as necessary, with regard to efforts to increase inclusion in the workforce of persons with disabilities.

(2) Report annually to the Legislature and the Governor on the employment status of Californians with disabilities.

(e) The California Governor's Committee on Employment of People with Disabilities shall provide support to the State Workforce Investment Board and the local one-stop centers in their efforts to achieve full compliance with Sections 18002, 18004, 18006, and 18008 of the Unemployment Insurance Code, and shall identify the extent to which any one-stops are not in full compliance with those sections and the reasons for the lack of compliance, including the need for additional resources.

(f) The California Governor's Committee on Employment of People with Disabilities shall meet quarterly with the California Health Incentive Improvement Project, administered by the State Department of Health Services, and the project's steering committee, to the extent funding for the project continues and the activities of the California Governor's Committee on Employment of People with Disabilities are not inconsistent with the charge of the California Health Incentive Improvement Project.

(g) Using existing funding, the California Governor's Committee on Employment of People with Disabilities shall facilitate, promote, and coordinate collaborative dissemination of information on employment supports and benefits, which shall include the Ticket to Work program and health benefits, to individuals with disabilities, consumers of public services, employers, service providers, and state and local agency staff.



(h) Using existing funding, the California Governor's Committee on Employment of People with Disabilities shall receive primary administrative and staff support from the State Employment Development Department.

SEC. 4. Section 12803.7 is added to the Government Code, to read:

12803.7. The California Governor's Committee on Employment of People with Disabilities, in conjunction with the Department of Rehabilitation, pursuant to Section 12803.65 and to the extent that funds are available, shall make grants available to counties and local workforce investment boards, through collaborative efforts of public agencies and private organizations, including organizations that serve people with disabilities, to accomplish both of the following purposes:

(a) To develop local strategies, including, but not limited to, regular cross-agency staff training, for enhancing employment opportunities for individuals with disabilities.

(b) To fund comprehensive local or regional benefits planning and outreach programs to assist individuals with disabilities in removing barriers to work.

SEC. 5. Division 10 (commencing with Section 18000) is added to the Unemployment Insurance Code, to read:

DIVISION 10. EMPLOYMENT ASSISTANCE FOR WORKERS WITH DISABILITIES

18000. (a) It is the purpose of this division to ensure that workforce preparation services provided through California's one-stop centers, including information and services provided electronically, are accessible to employers and jobseekers with disabilities.

(b) It is further the intent of the Legislature that one-stop centers provide appropriate services to individuals with disabilities to enhance their employability.

(c) It is further the intent of the Legislature that, in order to achieve the goals specified in subdivisions (a) and (b), local workforce investment boards plan for and report on services to jobseekers and employers with disabilities, including the implementation of the federal Ticket to Work program for those local workforce investment boards and one-stop centers that choose to implement the Ticket to Work program in their local workforce investment areas.

18002. Each local workforce investment board shall establish at least one comprehensive one-stop career center in each local workforce investment area. These one-stop centers shall ensure access to services pursuant to Section 134(d) of the federal Workforce Investment Act of



1998 (29 U.S.C. Sec. 2864(d)), including services for persons with disabilities, including, but not limited to, all of the following:

- (a) Outreach, intake, and orientation.
- (b) Initial assessments of skills, aptitudes, abilities, and need for support services.
- (c) Program eligibility determinations.
- (d) Information on the local, regional, and national labor market.
- (e) Information on filing for unemployment insurance.
- (f) Access to intensive services as needed, including, but not limited to, comprehensive and specialized assessments of skill levels and service needs, development of individual employment plans, group counseling, individual counseling and career planning, case management for participants seeking training services under subdivision (g), and short-term prevocational services, such as learning, communication, interview, and other jobseeking and work related skills to help prepare individuals for unsubsidized employment and training.
- (g) Training services, including, but not limited to, occupational skills training, on-the-job training, workplace training and cooperative education programs, private sector training programs, skills upgrade and retraining, entrepreneurial training, job readiness training, adult education, and literacy activities combined with training, and customized training.

18004. The local workforce investment boards shall schedule and conduct regular performance reviews of their one-stop centers to determine whether the centers and providers are providing effective and meaningful opportunities for persons with disabilities to participate in the programs and activities of the centers and providers.

18006. One-stop center counselor staff shall provide accurate information to beneficiaries of Supplemental Security Income and the State Supplemental Program and Social Security Disability Insurance on the implications of work for these individuals. The information shall include, but not be limited to, referrals to appropriate benefits' planners. One-stop center counselor staff shall also provide accurate information to individuals with disabilities on how they may gain access to Medi-Cal benefits pursuant to Section 14007.9 of the Welfare and Institutions Code.

18008. In order to ensure that one-stop career centers operated by local workforce investment boards meet the needs of workers and employers with disabilities, the Governor shall ensure that evaluations conducted pursuant to Sections 134 (a)(2)(B)(ii) and (v) of the federal Workforce Investment Act of 1998 (29 U.S.C. Sec. 2864(a)(2)(B)(ii) and (v)), address how local one-stop centers provide all of the following:



(a) Full access to workforce development services for their disabled community.

(b) Assistive technology to ensure access to services.

(c) Staff training on assessment and service strategies for jobseekers and employers with disabilities.

(d) Representation of the disability community in program planning and service delivery.

(e) The development of regional employment networks to participate in the federal Ticket to Work program and the role of the local board and one-stop centers in the Ticket to Work program.

18010. The California Workforce Investment Board shall report to the Governor and the Legislature by September 30, 2004, on the status of one-stop services to individuals with disabilities and implementation of the federal Ticket to Work program in California.

18012. If permitted by federal law, the California Workforce Investment Board and local workforce investment boards shall include persons with disabilities or their representatives, with a particular effort to include such persons who are not employees of state or local government.

SEC. 6. Section 12300 of the Welfare and Institutions Code is amended to read:

12300. (a) The purpose of this article is to provide in every county in a manner consistent with this chapter and the annual Budget Act those supportive services identified in this section to aged, blind, or disabled persons, as defined under this chapter, who are unable to perform the services themselves and who cannot safely remain in their homes or abodes of their own choosing unless these services are provided.

(b) Supportive services shall include domestic services and services related to domestic services, heavy cleaning, personal care services, accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites, yard hazard abatement, protective supervision, teaching and demonstration directed at reducing the need for other supportive services, and paramedical services which make it possible for the recipient to establish and maintain an independent living arrangement.

(c) Personal care services shall mean all of the following:

(1) Assistance with ambulation.

(2) Bathing, oral hygiene, and grooming.

(3) Dressing.

(4) Care and assistance with prosthetic devices.

(5) Bowel, bladder, and menstrual care.

(6) Repositioning, skin care, range of motion exercises, and transfers.

(7) Feeding and assurance of adequate fluid intake.



(8) Respiration.

(9) Assistance with self-administration of medications.

(d) Personal care services are available if these services are provided in the beneficiary's home and other locations as may be authorized by the director. Among the locations that may be authorized by the director under this paragraph is the recipient's place of employment if all of the following conditions are met:

(1) The personal care services are limited to those that are currently authorized for a recipient in the recipient's home and those services are to be utilized by the recipient at the recipient's place of employment to enable the recipient to obtain, retain, or return to work. Authorized services utilized by the recipient at the recipient's place of employment shall be services that are relevant and necessary in supporting and maintaining employment. However, workplace services shall not be used to supplant any reasonable accommodations required of an employer by the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.; ADA) or other legal entitlements or third-party obligations.

(2) The provision of personal care services at the recipient's place of employment shall be authorized only to the extent that the total hours utilized at the workplace are within the total personal care services hours authorized for the recipient in the home. Additional personal care services hours may not be authorized in connection with a recipient's employment.

(e) Where supportive services are provided by a person having the legal duty pursuant to the Family Code to provide for the care of his or her child who is the recipient, the provider of supportive services shall receive remuneration for the services only when the provider leaves full-time employment or is prevented from obtaining full-time employment because no other suitable provider is available and where the inability of the provider to provide supportive services may result in inappropriate placement or inadequate care.

These providers shall be paid only for the following:

(1) Services related to domestic services.

(2) Personal care services.

(3) Accompaniment by a provider when needed during necessary travel to health-related appointments or to alternative resource sites.

(4) Protective supervision only as needed because of the functional limitations of the child.

(5) Paramedical services.

(f) To encourage maximum voluntary services, so as to reduce governmental costs, respite care shall also be provided. Respite care is temporary or periodic service for eligible recipients to relieve persons who are providing care without compensation.



(g) A person who is eligible to receive a personal care service or an ancillary service provided pursuant to Section 14132.95 shall not be eligible to receive that same service pursuant to this article.

(h) (1) All services provided pursuant to this article shall be equal in amount, scope, and duration to the same services provided pursuant to Section 14132.95, including any adjustments that may be made to those services pursuant to subdivision (e) of Section 14132.95.

(2) Notwithstanding any other provision of this article, the rate of reimbursement for in-home supportive services provided through any mode of service shall not exceed the rate of reimbursement established under subdivision (j) of Section 14132.95 for the same mode of service unless otherwise provided in the annual Budget Act.

(3) Any recipient receiving services under both Section 14132.95 and this article shall receive no more than 283 hours of service per month, combined, and any recipient of services under this article shall receive no more than the applicable maximum specified in Section 12303.4.

SEC. 7. Section 14007.95 is added to the Welfare and Institutions Code, to read:

14007.95. The department shall report to the Governor and the Legislature any information the department gathers from the California Health Improvement Project, or from any other public or private sources, that may explain the low participation rates in the optional program provided pursuant to Section 14007.9 and any recommendations from the department on actions the state may take to increase participation by eligible persons in a manner that is cost effective for the state and beneficial for the participants.

SEC. 8. Section 14132.95 of the Welfare and Institutions Code is amended to read:

SEC. 8. Section 14132.95 of the Welfare and Institutions Code is amended to read:

14132.95. (a) Personal care services, when provided to a categorically needy person as defined in Section 14050.1 is a covered benefit to the extent federal financial participation is available if these services are:

(1) Provided in the beneficiary's home and other locations as may be authorized by the director subject to federal approval.

(2) Authorized by county social services staff in accordance with a plan of treatment.

(3) Provided by a qualified person.

(4) Provided to a beneficiary who has a chronic, disabling condition that causes functional impairment that is expected to last at least 12 consecutive months or that is expected to result in death within 12



months and who is unable to remain safely at home without the services described in this section.

(b) The department shall seek federal approval of a state plan amendment necessary to include personal care as a medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations. For any persons who meet the criteria specified in subdivision (a) or (p), but for whom federal financial participation is not available, eligibility shall be available pursuant to Article 7 (commencing with Section 12300) of Chapter 3, if otherwise eligible.

(c) Subdivision (a) shall not be implemented unless the department has obtained federal approval of the state plan amendment described in subdivision (b), and the Department of Finance has determined, and has informed the department in writing, that the implementation of this section will not result in additional costs to the state relative to state appropriation for in-home supportive services under Article 7 (commencing with Section 12300) of Chapter 3, in the 1992–93 fiscal year.

(d) (1) For purposes of this section, personal care services shall mean all of the following:

- (A) Assistance with ambulation.
- (B) Bathing, oral hygiene and grooming.
- (C) Dressing.
- (D) Care and assistance with prosthetic devices.
- (E) Bowel, bladder, and menstrual care.
- (F) Skin care.
- (G) Repositioning, range of motion exercises, and transfers.
- (H) Feeding and assurance of adequate fluid intake.
- (I) Respiration.
- (J) Paramedical services.
- (K) Assistance with self-administration of medications.

(2) Ancillary services including meal preparation and cleanup, routine laundry, shopping for food and other necessities, and domestic services may also be provided as long as these ancillary services are subordinate to personal care services. Ancillary services may not be provided separately from the basic personal care services.

(e) (1) (A) After consulting with the State Department of Social Services, the department shall adopt emergency regulations to establish the amount, scope, and duration of personal care services available to persons described in subdivision (a) in the fiscal year whenever the department determines that General Fund expenditures for personal care services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with



Section 12300) of Chapter 3, are expected to exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992–93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute. At least 30 days prior to filing these regulations with the Secretary of State, the department shall give notice of the expected content of these regulations to the fiscal committees of both houses of the Legislature.

(B) In establishing the amount, scope, and duration of personal care services, the department shall ensure that General Fund expenditures for personal care services provided for under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, do not exceed the General Fund appropriation and the federal appropriation under Title XX of the federal Social Security Act provided for the 1992–93 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1992, as adjusted for caseload growth or as increased in the Budget Act or appropriated by statute.

(C) For purposes of this subdivision, “caseload growth” means an adjustment factor determined by the department based on (1) growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability, (2) the average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1988–89 to 1992–93 fiscal years, inclusive, due to the level of impairment, and (3) any increase in program costs that is required by an increase in the mandatory minimum wage.

(2) In establishing the amount, scope, and duration of personal care services pursuant to this subdivision, the department may define and take into account, among other things:

(A) The extent to which the particular personal care services are essential or nonessential.

(B) Standards establishing the medical necessity of the services to be provided.

(C) Utilization controls.

(D) A minimum number of hours of personal care services that must first be assessed as needed as a condition of receiving personal care services pursuant to this section.

The level of personal care services shall be established so as to avoid, to the extent feasible within budgetary constraints, medical out-of-home placements.



(3) To the extent that General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1992–93 fiscal year, adjusted for caseload growth, exceed General Fund expenditures for services provided under this section and expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in any fiscal year, the excess of these funds shall be expended for any purpose as directed in the Budget Act or as otherwise statutorily disbursed by the Legislature.

(f) Services pursuant to this section shall be rendered, under the administrative direction of the State Department of Social Services, in the manner authorized in Article 7 (commencing with Section 12300) of Chapter 3, for the In-Home Supportive Services program. A provider of personal care services shall be qualified to provide the service and shall be a person other than a member of the family. For purposes of this section, a family member means a parent of a minor child or a spouse.

(g) A beneficiary who is eligible for assistance under this section shall receive services that do not exceed 283 hours per month of personal care services.

(h) Personal care services shall not be provided to residents of facilities licensed by the department, and shall not be provided to residents of a community care facility or a residential care facility for the elderly licensed by the Community Care Licensing Division of the State Department of Social Services.

(i) Subject to any limitations that may be imposed pursuant to subdivision (e), determination of need and authorization for services shall be performed in accordance with Article 7 (commencing with Section 12300) of Chapter 3.

(j) (1) To the extent permitted by federal law, reimbursement rates for personal care services shall be equal to the rates in each county for the same mode of services in the In-Home Supportive Services program pursuant to Article 7 (commencing with Section 12300) of Chapter 3, plus any increase provided in the annual Budget Act for personal care services rates or included in a county budget pursuant to paragraph (2).

(2) (A) The department shall establish a provider reimbursement rate methodology to determine payment rates for the individual provider mode of service that does all of the following:

(i) Is consistent with the functions and duties of entities created pursuant to Section 12301.6.



(ii) Makes any additional expenditure of state general funds subject to appropriation in the annual Budget Act.

(iii) Permits county-only funds to draw down federal financial participation consistent with federal law.

(B) This ratesetting method shall be in effect in time for any rate increases to be included in the annual Budget Act.

(C) The department may, in establishing the ratesetting method required by subparagraph (A), do both of the following:

(i) Deem the market rate for like work in each county, as determined by the Employment Development Department, to be the cap for increases in payment rates for individual practitioner services.

(ii) Provide for consideration of county input concerning the rate necessary to ensure access to services in that county.

(D) If an increase in individual practitioner rates is included in the annual Budget Act, the state-county sharing ratio shall be as established in Section 12306. If the annual Budget Act does not include an increase in individual practitioner rates, a county may use county-only funds to meet federal financial participation requirements consistent with federal law.

(3) (A) By November 1, 1993, the department shall submit a state plan amendment to the federal Health Care Financing Administration to implement this subdivision. To the extent that any element or requirement of this subdivision is not approved, the department shall submit a request to the federal Health Care Financing Administration for any waivers as would be necessary to implement this subdivision.

(B) The provider reimbursement ratesetting methodology authorized by the amendments to this subdivision in the 1993–94 Regular Session of the Legislature shall not be operative until all necessary federal approvals have been obtained.

(k) (1) The State Department of Social Services shall, by September 1, 1993, notify the following persons that they are eligible to participate in the personal care services program:

(A) Persons eligible for services pursuant to the Pickle Amendment, as adopted October 28, 1976.

(B) Persons eligible for services pursuant to subsection (c) of Section 1383c of Title 42 of the United States Code.

(2) The State Department of Social Services shall, by September 1, 1993, notify persons to whom paragraph (1) applies and who receive advance payment for in-home supportive services that they will qualify for services under this section without a share of cost if they elect to accept payment for services on an arrears rather than an advance payment basis.

(l) An individual who is eligible for services subject to the maximum amount specified in subdivision (b) of Section 12303.4 shall be given the option of hiring his or her own provider.

(m) The county welfare department shall inform in writing any individual who is potentially eligible for services under this section of his or her right to the services.

(n) It is the intent of the Legislature that this entire section be an inseparable whole and that no part of it be severable. If any portion of this section is found to be invalid, as determined by a final judgment of a court of competent jurisdiction, this section shall become inoperative.

(o) Paragraphs (2) and (3) of subdivision (a) shall be implemented so as to conform to federal law authorizing their implementation.

(p) (1) Personal care services shall be provided as a covered benefit to a medically needy aged, blind, or disabled person, as defined in subdivision (a) of Section 14051, to the same extent and under the same requirements as they are provided under subdivision (a) of this section to a categorically needy, aged, blind, or disabled person, as defined in subdivision (a) of Section 14050.1, and to the extent that federal financial participation is available.

(2) The department shall seek federal approval of a state plan amendment necessary to include personal care services described in paragraph (1) as a medicaid service pursuant to subdivision (f) of Section 440.170 of Title 42 of the Code of Federal Regulations.

(3) In the event that the Department of Finance determines that expenditures of both General Fund moneys for personal care services provided under this subdivision to medically needy aged, blind, or disabled persons together with expenditures of both General Fund moneys and federal funds received under Title XX of the federal Social Security Act for all aged, blind, and disabled persons receiving in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, in the 2000–01 fiscal year or in any subsequent fiscal year, are expected to exceed the General Fund appropriation and the federal appropriation received under Title XX of the federal Social Security Act for expenditures for all aged, blind, and disabled persons receiving in-home supportive services provided in the 1999–2000 fiscal year pursuant to Article 7 (commencing with Section 12300) of Chapter 3, as it read on June 30, 1998, as adjusted for caseload growth or as changed in the Budget Act or by statute or regulation, then this subdivision shall cease to be operative on the first day of the month that begins after the expiration of a period of 30 days subsequent to a notification in writing by the Director of the Department of Finance to the chairperson of the committee in each house that considers appropriations, the chairpersons of the committees and the appropriate



subcommittees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(4) Solely for purposes of paragraph (3), caseload growth means an adjustment factor determined by the department based on:

(A) Growth in the number of persons eligible for benefits under Chapter 3 (commencing with Section 12000) on the basis of their disability.

(B) The average increase in the number of hours in the program established pursuant to Article 7 (commencing with Section 12300) of Chapter 3 in the 1994–95 to 1998–99 fiscal years, inclusive, due to the level of impairment.

(C) Any increase in program cost that is required by an increase in hourly costs pursuant to the Budget Act or statute.

(5) In the event of a final judicial determination by any court of appellate jurisdiction or a final determination by the Administrator of the federal Centers for Medicare and Medicaid Services that personal care services must be provided to any medically needy person who is not aged, blind, or disabled, then this subdivision shall cease to be operative on the first day of the first month that begins after the expiration of a period of 30 days subsequent to a notification in writing by the Director of Finance to the chairperson of the committee in each house that considers appropriations, the chairpersons of the committees and the appropriate subcommittees in each house that consider the State Budget, and the Chairperson of the Joint Legislative Budget Committee.

(6) If this subdivision ceases to be operative, all aged, blind, and disabled persons who would have received or been eligible to receive in-home supportive services pursuant to Article 7 (commencing with Section 12300) of Chapter 3, but for receiving services under this subdivision, shall be eligible immediately upon this section becoming inoperative for services pursuant to Article 7 (commencing with Section 12300) of Chapter 3.

(7) The department shall implement this subdivision on April 1, 1999, but only if the department has obtained federal approval of the state plan amendments described in paragraph (2) of this subdivision.

SEC. 9. Section 14132.955 is added to the Welfare and Institutions Code, to read:

14132.955. Personal care services that are provided pursuant to Section 14132.95 shall include services in the recipient's place of employment if both of the following conditions are met:

(a) The personal care services are limited to those that are currently authorized for the recipient in the recipient's home and those services are to be utilized by the recipient at the recipient's place of employment to enable the recipient to obtain, retain, or return to, work. Authorized



services utilized by the recipient at the recipient's place of employment shall be services that are relevant and necessary in supporting and maintaining employment. However, work place services shall not be used to supplant any reasonable accommodations required of an employer by the Americans with Disabilities Act (42 U.S.C. Sec. 12101 et seq.) or other legal entitlements or third-party obligations.

(b) The provision of personal care services at the recipient's place of employment shall be authorized only to the extent that the total hours utilized at the work place are within the total personal care services hours authorized for the recipient in the home. Additional personal care services hours may not be authorized in connection with a recipient's employment.

SEC. 10. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

